

ROGER I. TEICH  
California State Bar No. 147076  
290 Nevada Street  
San Francisco, CA. 94110  
Telephone: (415) 948-0045  
E-Mail Address: rteich@juno.com

DAVID A. NICKERSON  
California State Bar No. 111885  
32 Bridgegate Drive  
San Rafael, CA. 94903  
Telephone: (415) 507-9097  
E-Mail Address: nickersonlaw@comcast.net  
*Attorneys for Petitioner*

KAMALA D. HARRIS  
Attorney General of California  
GLENN R. PRUDEN  
Supervising Deputy Attorney General  
MICHELE J. SWANSON  
Deputy Attorney General  
State Bar No. 191193  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA. 94102-7004  
Telephone: (415) 703-5703  
Fax: (415) 703-1234  
E-Mail: Michele.Swanson@doj.ca.gov  
*Attorneys for Respondent*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

DARREN CORNELIUS STANLEY,  
  
Petitioner,  
  
vs.  
  
RON DAVIS, Warden,  
San Quentin State Prison,  
  
Respondent.

No. 3-7-CV-4727-EMC

**DEATH PENALTY CASE**

**JOINT STATEMENT CONCERNING  
FILING OF FINALIZED PETITION  
PURSUANT TO DOCKET # 184**

**JOINT INTRODUCTION**

On December 18, 2015, the Court issued an order, Docket # 184, directing the parties to meet and confer “and submit a joint statement confirming the days remaining for Petitioner to file a finalized petition once the stay is lifted.” The Court also indicated that the parties may briefly address other issues, such as the approval of a Phase II budget, that they “deem relevant.” Below is the Joint Statement of the parties.

The parties further note that on December 21, 2015, the Court set a Case Management Conference for February 4, 2016. The Joint Case Management Statement of the parties is due to be filed by January 28, 2016.

**Respondent's Position**

On January 5, 2011, this Court denied without prejudice petitioner's first motion for equitable tolling (filed pro per) as premature. (Docket # 10.) On February 11, 2011, this Court appointed federal habeas counsel. (Docket # 11.) On July 26, 2011, this Court granted in part and denied in part petitioner's second motion for equitable tolling, granting him one year from the date of appointment of federal habeas counsel in which to file a finalized petition, or until February 10, 2012. (Docket # 26.) On November 28, 2011, this Court granted petitioner a stay to determine his *Gates* competency, and also granted him equitable tolling *nunc pro tunc* to October 6, 2011, the date on which he submitted a budget request for funding to prepare his finalized petition. (Docket # 39.) On July 16, 2013, the Court partially lifted the stay to explore petitioner's *Ford* competency, and denied without prejudice petitioner's third motion for equitable tolling as premature. (Docket # 106.)

Given the completion of the *Gates* and *Ford* proceedings, there is no longer a legal basis for continuing the stay in this case. Once the stay is lifted, petitioner will have 127 days left to file a finalized petition. The Court should reject petitioner's contention that the stay should not be lifted until he submits a revised Phase II budget and it is approved by the Court. Whether federal habeas counsel is entitled to additional time to file a finalized petition for this asserted reason is more appropriately addressed in a motion for equitable tolling.

**Petitioner's Position**

Petitioner's position is that the stay should not be lifted until a Phase II budget order has been issued by the Court. On November 10, 2011, Petitioner filed a Motion To Stay Proceedings And For Equitable Tolling Pending Determination of Petitioner's Competency. In that motion Stanley sought "equitable tolling of the federal habeas statute of limitations nunc pro tunc to October 6, 2011, when Petitioner submitted to the Court a budget request to prepare his finalized

petition.” (Docket # 39.) The Court granted that motion, finding that Petitioner was entitled to a stay pending a determination of his competency. The Court’s Order also stated: “The Court therefore grants such a stay, including equitable tolling, nunc pro tunc to October 6, 2011.” (Doc. No. 39.)

In short, the Court has already granted equitable tolling starting from the date Petitioner submitted his proposed Phase II budget, October 6, 2011. That budget proposal was 82-pages. It has been over three years since that budget proposal was submitted. During that time period the parties have conducted a great deal of factual development. A revised budget proposal is obviously necessary. Petitioner will submit a revised Phase II budget proposal on or before January 19, 2016. Petitioner requests that the Court not lift the stay until a Phase II budget is approved.

Petitioner also contends that equitable tolling is both necessary and appropriate in this case. Petitioner had previously filed a Third Motion for Equitable Tolling. (Docket # 104.) That motion was “denied without prejudice as premature.” (Docket # 106, p. 6.) If the stay is lifted Petitioner’s request for equitable tolling will no longer be “premature.” Petitioner will file a fourth motion for equitable tolling prior to the approval of a budget and prior January 28, 2016, the due date for the Case Management Statement.

Without further equitable tolling, Petitioner would have 127-days to file a timely finalized petition.

Dated: December 28, 2015

Respectfully submitted,  
ROGER I. TEICH  
DAVID A. NICKERSON  
Attorneys for Petitioner  
DARREN CORNELIUS STANLEY

By /s/  
DAVID A. NICKERSON

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
GLENN R. PRUDEN  
Supervising Deputy Attorney General  
MICHELE J. SWANSON  
Deputy Attorney General

By /s/  
MICHELE J. SWANSON